



OFFICE OF  
INSURANCE COMMISSIONER

3453 04/22/04

\$435.00 ✓

BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF WASHINGTON

In the matter of

**AMERICAN LUNG ASSOCIATION**

New York, New York

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No. D 2004- 52

STIPULATIONS, FINDINGS,

CONSENT AND ORDER

AMERICAN LUNG ASSOCIATION is a charitable organization and has been issuing charitable gift annuities in the State of Washington, and is therefore governed by Title 48 RCW.

This administrative action is based on allegations by the Commissioner's staff that AMERICAN LUNG ASSOCIATION violated RCW 48.05.030 and Chapter 48.38 RCW, by the activity described in the following numbered paragraphs. To resolve only the issues identified in the following numbered paragraphs, to eliminate the necessity for a hearing, and as a negotiated settlement of the Commissioner's allegations, AMERICAN LUNG ASSOCIATION has voluntarily executed the Consent to Order contained herein and stipulates to the entry of the Order contained herein.

**STIPULATIONS**

1. RCW 48.05.030 provides that no person shall act as an insurer nor transact insurance in this state other than as authorized by a certificate of authority issued to it by the Commissioner.
2. RCW 48.11.020 defines life insurance as including the granting of annuities.
3. Chapter 48.38 RCW provides that certain charitable organizations upon complying with the provisions of the Chapter may, after receiving a certificate of exemption from the Commissioner, conduct a charitable gift annuity business and be exempted from most of the provisions of Title 48 RCW.

Stipulations, Findings, Consent and Order-1

4. Beginning in January of 1995 AMERICAN LUNG ASSOCIATION has issued 2 annuities without having been properly licensed to do so.

### FINDINGS

1. The Commissioner finds that AMERICAN LUNG ASSOCIATION by and through the conduct described above, has violated RCW 48.05.030 and Chapter 48.38 RCW.
2. The Commissioner further finds that RCW 48.01.080 provides that any person violating any provision of Title 48 RCW is guilty of a gross misdemeanor and will upon conviction, be fined not less than ten dollars nor more than \$1,000, or imprisoned for not more than one year, or both.
3. The Commissioner further finds that RCW 48.15.023 provides that any insurer that is not authorized to solicit business in the State of Washington who knowingly solicits insurance business or transacts insurance business in the State of Washington is guilty of a Class B felony punishable under chapter 9A.20 RCW.

### CONSENT TO ORDER

Based on the above and foregoing stipulations, AMERICAN LUNG ASSOCIATION consents to pay the sum of \$225 being the \$25 annual fee for the 9 years it would have had to pay the fee if it had been properly licensed, the sum of \$10 being the \$5 fee for each annuity that it issued if it had been properly licensed, and a fine in the amount Two Hundred Dollars and 00/100 (\$200), for a total amount of \$435.

Based on the above and foregoing stipulations, AMERICAN LUNG ASSOCIATION voluntarily consents to the following order to resolve the issues and alleged conduct described herein and with the understanding that the payment of the amount levied against AMERICAN LUNG ASSOCIATION is a condition of the issuance of a Certificate of Exemption to AMERICAN LUNG ASSOCIATION for the conduct described herein.

Based on the above and foregoing stipulations, AMERICAN LUNG ASSOCIATION acknowledges its duty and obligation to fully comply with the applicable laws and regulations of the State of Washington.

Signed this 13<sup>th</sup> day of April 2004.  
AMERICAN LUNG ASSOCIATION

by: 

Title: Chief Executive Officer

### ORDER

IT IS ORDERED that pursuant to RCW 48.38.050 and the foregoing Stipulations, Findings, and Consent to Order, AMERICAN LUNG ASSOCIATION pay a total sum in the amount of Four Hundred Thirty Five Dollars and 00/100 (\$435) for the activity described in the foregoing Stipulation.

IT IS FURTHER ORDERED that in the event that this sum is not paid within 30 days from the date of this order, the sum will be recoverable in a civil action brought on behalf of the Insurance Commissioner by the Attorney General, pursuant to RCW 48.05.185.

SIGNED AND ENTERED THIS <sup>23</sup>73 day of April 2004.

  
James T. Odiorne  
Deputy Insurance Commissioner